

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NO. SPU-04-8
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**ORDER DOCKETING FOR FURTHER PROCEEDINGS, ESTABLISHING  
PROCEDURAL SCHEDULE, GRANTING STAY,  
AND GRANTING INTERVENTIONS**

(Issued April 27, 2004)

On March 24, 2004, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) a "Petition for Suspension or Modification of Number Portability," pursuant to 47 U.S.C. § 251(f)(2) and Iowa Code § 476.1 (2003), in coordination with its Network Improvement Plan (NIP) submitted in Docket No. RPU-02-4. Iowa Telecom requests that the Board suspend or modify the federal requirements relating to thousands-block number pooling (TBNP) and the long-term database method for local number portability (LNP) in a portion of its Iowa exchanges. The petition has been identified as Docket No. SPU-04-8.

In support of its petition, Iowa Telecom states that it is a rural incumbent local exchange carrier (ILEC) with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. Iowa Telecom states that it has received

requests from numerous wireless carriers that request LNP in every exchange served by Iowa Telecom.

On April 8, 2004, Sprint Corporation, on behalf of its wireless division, Sprint Spectrum, L.P., d/b/a Sprint PCS (Sprint), filed with the Board a petition to intervene in this proceeding. No objections to the petition to intervene have been filed.

In support of its petition to intervene, Sprint states that it is a wireless provider authorized to do business in Iowa. Sprint also states that its rights and interests may be substantially affected by the Board's decision in this proceeding and its unique interests are not likely to be adequately represented by other parties.

On April 15, 2004, WWC License, LLC, Verizon Wireless, and U.S. Cellular Corporation, jointly appearing as the Wireless Coalition for Intermodal Portability (Wireless Coalition), filed with the Board a petition to intervene in this proceeding. No objections to the petition to intervene have been filed.

In support of its petition to intervene, the Wireless Coalition states that it consists of wireless service providers that collectively provide service throughout Iowa. Wireless Coalition also states that the subject matter of this proceeding specifically impacts the rights of its carriers to port telephone numbers and that its interests are not likely to be adequately represented by other parties.

The petitions to intervene will be granted pursuant to 199 IAC 7.2(7)"d." As wireless service providers in Iowa, Sprint and the Wireless Coalition have demonstrated unique interests in these proceedings that should be represented.

Section 251(b)(2) of the Telecommunications Act of 1996 (1996 Act) provides that each local exchange carrier has the duty to provide number portability to the extent it is technically feasible. In addition, the Federal Communications Commission (FCC) issued an order on November 10, 2003, in which the FCC requires that

LECs must port numbers to wireless carriers where the requesting wireless carrier's 'coverage area' overlaps the geographic location of the rate center in which the customer's wire line is provisioned, provided that the porting in carrier maintains the number's original rate center designation following the port.

See "Order," In re: Telephone Number Portability, CC Docket No. 95-116, ¶ 22

(2003). The deadline for complying with the FCC requirement depends upon the size of the market served. LECs serving the top 100 Metropolitan Statistical Areas (MSAs) were required to offer intermodal number portability in those markets by November 23, 2003, while all other LECs were given an additional six months, to May 24, 2004, to comply. By order released January 16, 2004, the FCC extended the deadline for LECs serving less than 2 percent of the nation's subscriber lines to provide wireless local number portability in the top 100 MSAs to May 24, 2004.

Iowa Telecom requests an extension of the FCC's May 24, 2004, deadline until December 31, 2004, for 34 exchanges that are not LNP-capable and 21 exchanges that are not TBNP-capable. Iowa Telecom is also seeking a suspension of LNP and TBNP requirements until May 24, 2008, for 71 exchanges that are not LNP-capable and 108 exchanges that are not TBNP-capable. Iowa Telecom states that these timeframes are in accordance with its Network Improvement Plan, which has been filed with the Board in a separate docket, Iowa Telecommunications

Services, Inc., d/b/a Iowa Telecom, Docket No. RPU-02-4. In addition, Iowa Telecom is seeking suspension of LNP requirements for seven exchanges that Iowa Telecom is in the process of selling. Iowa Telecom requests the suspension remain until the purchasers complete switch replacement or until the Board establishes a separate compliance date for each purchaser.

In the settlement agreement in Docket No. RPU-02-4, Iowa Telecom agreed to implement TBNP in all mandatory or mandatory-optional rate centers, except those served by DMS-10 switch technology, no later than January 2005, and agreed to meet all requirements and schedules of the FCC for the implementation of number porting in the top 100 MSAs. Iowa Telecom also agreed to prioritize statewide LNP and TBNP capabilities for completion as soon as reasonably possible. In its petition in this docket, Iowa Telecom asserts that by the end of 2004 over 80 percent of its lines will be LNP-capable and almost 70 percent of its lines will be TBNP capable.

Under Federal law, the Board has jurisdiction to suspend or modify the FCC's number portability requirements. Section 251(f)(2) of the 1996 Act states:

A local exchange carrier with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition.

The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification --

(A) is necessary --

- (i) to avoid a significant adverse economic impact on users of telecommunications services generally,
  - (ii) to avoid imposing a requirement that is unduly economically burdensome; or
  - (iii) to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

Thus, the Board has jurisdiction of this petition pursuant to 47 U.S.C. § 251(f)(2) and must act upon the petition within 180 days of receipt of a complete petition. The Board received Iowa Telecom's petition on March 24, 2004. Therefore, the deadline for Board action in this docket is September 20, 2004. Meeting this deadline will require a relatively tight procedural schedule. Moreover, due to the numerous other matters on the Board's schedule, the procedural schedule in this docket is not subject to change. The parties should govern themselves accordingly.

Iowa Telecom also requests the Board issue an order suspending the May 24, 2004, deadline for implementing the intermodal number portability requirements pending final action of this proceeding. The Wireless Coalition objects to Iowa Telecom's request for suspension. The Wireless Coalition asserts that Iowa Telecom fails to present sufficient grounds for the Board to grant an interim stay of the

intermodal number portability requirements and that the public interest in competition weighs heavily against a stay.

Pursuant to § 251(f)(2) of the Act, the Board has been given the authority to suspend the enforcement of these requirements for Iowa Telecom while the Board considers the petition. The Board notes that without a stay, the May 24, 2004, deadline would render these proceedings moot, because Iowa Telecom would be required to comply with the requirements they are seeking to suspend. This fact, by itself, is sufficient to justify granting a stay while the Board considers the petition. Therefore, the Board will grant Iowa Telecom's request for a temporary stay of the intermodal number portability requirements while this matter is pending.

**IT IS THEREFORE ORDERED:**

1. The petition for suspension of number portability requirements filed on March 24, 2004, by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, is docketed for investigation and identified as Docket No. SPU-04-8.
2. The following procedural schedule is established for this proceeding:
  - a. Petitioners shall file prepared direct testimony, with supporting exhibits and workpapers, on or before May 19, 2004.
  - b. Objectors shall file any prepared rebuttal testimony, with supporting exhibits and workpapers, on or before June 16, 2004.
  - c. Petitioners may file any prepared rebuttal testimony, with supporting exhibits and workpapers, on or before June 30, 2004.

d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on July 20, 2004, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

e. Any party desiring to file a brief may do so on or before August 11, 2004.

3. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

4. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

5. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

6. Pursuant to 199 IAC 7.7(2) and (11), the time for filing responses or objections to data requests and motions will be shortened to five days from the date the motion is filed or the data request is served. All data requests and motions should be served by facsimile transfer or by electronic mail, in addition to United States mail.

7. The Petitioner's request for a temporary suspension of enforcement of the FCC's intermodal local number portability requirements during the pendency of this proceeding is granted as described in this order.

8. The petitions to intervene filed by Sprint Corporation on April 8, 2004, and the Wireless Coalition for Intermodal Portability on April 15, 2004, are granted.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 27<sup>th</sup> day of April, 2004.